

FCM No. 21 (Sec. Rule 114)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

O.A. No.

1248

1997

Ch. Venkataswama

Applicant(s)

Versus

Mr. D.R.M. Siry, Guntakal & Co.

Respondent(s)

INDEX SHEET

Sl.No	Description of documents & Date	Pages.
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6.	Orders in (final Orders) S. 2-99.	

3/3/99
Signature of dealing Head
in Record Section.

Signature of S.O.

1248/97

Date	Office Note	ORDER
<u>21-8-98</u>	<u>Before P.R. Court</u> None Present Call on 25-8-98 for memo & Reply. MJP ✓ D.R.	
<u>1-9-98</u>	None present Call on 6-10-98 for memo & Reply. MJP ✓ D.R.	
<u>27-10-98</u>	None present Include it in Ready List of 1999. MJP ✓ D.R.	
	<u>6.1.99</u> Port this O.A. on 6.2.99. No further adjournment. MJP HBSP M(J)	MJP ✓ HARRN M(J)
<u>5/2/99</u>	The OA is disposed of, vide order on separate sheets. NO costs. MJP HBSP M(J)	MJP ✓ HARRN M(J)

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

D.A.No. 1248 of 1997.

Challa Venkateswaram Applicants(s).

VERSUS.

The Divisional Rly. Manager
S.C. Rly. Guntur Lanelier
(Respondents).

Date	Office Note	ORDER
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26.9.97

Mrs. Sarada for Mr. P. Krishna Reddy, for the applicant.

None for the respondent.

Admit.

[Signature]
HBSJP
H.O.

[Signature]
HRRN
H.O.

17/3/98 Before Dy. Regr.

None Present. Notice served on both the respondents. Call on 21/4/98 for memo and reply.

[Signature]
Dy. Regr.

OSR

21-4-98 None Present
Call on 9-6-98 for memo and reply.

[Signature]
D.R.

16/6/98

None Present. Call on 21/7/98 for memo & reply.

[Signature]
Dy. Regr.

6.1.99

Post this O.A. on 4.2.99/No further adjournments.

HBSJP
H.O.

HRRN
H.O.

Admit
By
11.10.97
Issued
21/6/98

OSR

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: BENCH HYDERABAD.

ORIGINAL APPLICATION NO. 1248 OF 1997.

Ch. Venkata Ramana

(Applicants(sS))

VERSUS

Union of India, Repd., By:

The Divisional Railway Manager

SC Railway, Guntur & am.

Respondents(sS(S))

The Application has been Submitted to the Tribunal by Shri
Shri P. Koushna Reddy Advocate/Party-
in person Under Section 19 of the Administrative Tribunal
Act. 1985 and the same has been scrutinised with reference to
the points mentioned in the check list in the light of the
provisions in the administrative Tribunal(procedure) Rules
1987.

The application is in order and may be listed for Admission

No.

Scrutiny Asst.

DEPUTY REGISTRAR(JUDL).

10. Is the application accompanied IFO/DD, for Rs.50/-.
11. Have Legible copies of the annexure duly attested been filed.
12. Has the applicant exhausted all available remedies.
13. Has the Index of documents been filed and pagination done properly.
14. Has the declaration as a required by item No. 7 of form, I been made.
15. Have required number of envelopes (file six) bearing full addresses of the respondents been filed.
16. (a) Whether the relief sought form arise out of single cause of action.
(b) Whether any interim relief is prayed for.
17. In case an Ma for connonation of delay in filed, it supported b an affidavit of the a; licant.
18. Whether t is cause ben heard by a single bench.
19. Any other points.
20. Result of the scrutiny with initial of the scrutiny clerk.

Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

may be numbered pl.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Dairy No. 3065/97

Report in the Scrutiny of Application.

Presented by Mr. P. Krishna Reddy Adv. of presentation.

Applicant(s) Mr. Venkatesh Ramana

Respondent(s) The Divisional Railway Manager, Sec Railway, Hyderabad & Co.

Nature of grievance Payment of arrears of salary

No. of Applicants 1 No. of Respondents 2

CLASSIFICATION.

Subject Payment of arrears of salary No. (S) Department Railway 134 (NO)

1. Is the application in the proper form, (three complete sets in paper books form in the two complitions). Y
2. Whether name description and address of all the parties been furnished in the cause title. Y
3. (a) Has the application been fully signed and verified. Y
(b) Has the copies been duly signed. Y
(c) Have sufficient number of copies of the application been filed. Y
4. Whether all the necessary parties are impleaded. Y
5. Whether English translation of documents in a language, other than English or Hindi been filed. Y
6. Is the application on time, (see section 21) Y
7. Has the Vakalatnama/Memo of appearance/Authorisation been filed. Y
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) Y
9. Is the application accompanied, duly attested legible copy been filed. Y

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD Bench: HYDERABAD

INDEX SHEET

O.A.NO. 1248 of 1997.

CAUSE TITLE Challa Venkataramana

V E R S U S

The Divisional Rly. Manager
vs. Rly. & others

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to direct in respondents to pay arrears of pay & allow
from 15.6.86 to 21.8.87 with interest at market
rate forthwith 3

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: AT HYDERABAD.

Bench

O.A.No. 1248 of 1997.

Payment of Salary
Q1.

Between:

Challa Venkataramana.

... Applicant. ~~Secy~~/RAILWAY

And:

Railway (32)

1. The Divisional Railway Manager,
S.C.Rly., Guntakal and another. .. Respondents.

CHRONOLOGICAL EVENTS

Sl.No.	Date.	Description of the Document.	Pg.No.
1.	1984.	The applicant is working as a Gangman under PWI/Madanapalli.	
2.	5-6-19986.	The applicant was removed from service.	
3.	19-8-1987.	The appellate authority set aside the removal order and directed appointment of the applicant as a fresh candidate.	
4.	26-12-1990.	Aggrieved by the order of the Appellate Authority, the applicant filed O.A.No. 542/88 and the same was disposed of.	
5.	28-1-97.	The administration given reply to the legal notice issued by the applicant.	

Hyderabad,
Dt. 9--2--1997.

P. S. Sada
Counsel for the Applicant.

*Ad. vs. Comp.
C. Rly.
19/8/87
C.A. for Rly.*



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: AT HYDERABAD.

O.A.No. 1248 of 1997.

Between:

Challa Venkataramana. . . . Applicant.

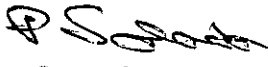
And:

1. The Divisional Railway Manager(Works),
S.C.Rly.,Guntakal and another. . . . Respondents.

MATERIAL PAPER INDEX

Sl.No.	Date.	Description of the Document.	Pg.No.
1.	----	Original Application.	1 -- 6
2.	<u>Annexure-I</u> 28-1-1997.	Lr.No.G/W.536/MG/W-4 issued by the Ist respondent.	7 -- 8
3.	<u>Annexure-II</u> 25-12-1996.	Legal notice.	9 -- 11
4.	<u>Annexure-III</u> 26-10-1990.	Judgement in O.A.No.542/1988.	12 -- 16

Hyderabad,
Dt.9--9--1997.


Counsel for the Applicant.

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APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

For Use in Tribunal Office:-

DATE OF FILING

OR
DATE OF RECEIPT
BY POST.

REGISTRATION NO.

SIGNATURE:
REGISTRAR:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.No. 1248 of 1997.

Between:

Challa Venkataramana,
s/o.Challa Akkulappa,
aged about 56 years,
Gangman, O/o-PWI,
Madanapalli Section, S.C. Rly.,
Pakala, Chittoor District. Applicant.

And:

1. The Divisional Railway Manager(Works),
South Central Railway,
Guntakal, Anantapur District.
2. The Senior Divisional Engineer(MG),
South Central Railway,
Guntakal, Anantapur District. Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the Applicant:-

The name and description of the above named applicant
is same as given in the cause-title.

The address for service of all notices and process
on the abovenamed applicant is that of his counsel
M/s.P.Krishna Reddy & Smt.P.Sarada, Advocates, 3-5-899,
Himayathnagar, Hyderabad-29.

2. Particulars of the Respondents:-

The address for service of all notices and process
on the above named respondents are same as given in the
cause-title.

3. Particulars of the order against applicant is made:-

- i) Order No.
- ii) Date. ---: NIL :---
- iii) Issued by.
- iv) Subject in Brief:- To direct the respondents to pay arrears of salary with the interest at market rate.

4. Jurisdiction of the Tribunal:-

The applicant declares that the subject matter of the present O.A. is within the jurisdiction under Sec.14(1) of the Administrative Tribunals Act,1985.

5. Limitation:-

The applicant further declares that this O.A. is filed is within the limitation as prescribed in Sec.21 of the Administrative Tribunals Act,1985.

6. Brief Facts of the Case:-

(a) The applicant is a gangman working under PWI/Madanapalli. In the year 1984 the applicant was transferred from Madanapalli section to Kalikiri Section. As normally transfers of gangman from one seniority unit to the other seniority unit should not be ordered, the applicant filed an appeal to the Divisional Railway Manager to cancel the transfer order and retain him at Madanapalli only. On appeal the Divisional Railway Manager cancelled the transfer order. As the appeal was pending and as he was not keeping good health, the applicant did not carryout the transfer order. Subsequently the transfer was cancelled. Under those circumstances the applicant was absent for the period of 61 days. On the ground that the applicant was unauthorisedly absent for 61 days, a chargememo was issued stating that he did not carry out the transfer order. The enquiry was conducted and on the basis of the enquiry report, the applicant was removed from service by an order dt.5-6-1986. On appeal, the Appellate

Authority disposed of the appeal on 19-8-87 agreeing with the report of enquiry officer but at the same time he has set aside the removal order and directed appointment of the applicant as a fresh candidate. Against the order of the Appellate Authority, revision was preferred and the same was dismissed.

(b) Aggrieved by the order, the applicant filed O.A. No.542/88. In the O.A. the department had filed their counter. The Hon'ble Tribunal by an order dt.26-12-1990 was pleased to allow the O.A. on the ground that enquiry officer report was not supplied, with the following direction:-

"In view of the above decision, we hold the enquiry in the instant case is vitiated and the order imposing the penalty of removal and subsequent appointment of the applicant as a fresh candidate on the minimum pay of Rs.775/- in the pay scale of Rs.775-1025 must be quashed. This, however, will not preclude the respondents from supplying a copy of the enquiry report to the applicant and give him an opportunity to make his representation and proceedings to complete the disciplinary proceedings from that stage. The application is allowed to the extent indicated above, but in the circumstances, we make no order as to costs.

4. If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result. Nothing said herein would affect the decision of the disciplinary authority. At the same time, we may add that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceedings. That is entirely left to the discretion of the disciplinary authority.

5. Since we are allowing the O.A. on the ground that the matter is covered by the Full Bench decision in Premnath K. Sharma's case, we are not taking up the other contentions raised. It is open to the applicant to raise these contentions before the disciplinary authority if further action is sought to be taken against him."

Against the order in O.A., the respondents filed the R.P. No.11/92 and the same was dismissed. The applicant submits that subsequently enquiry was conducted, and enquiry report was furnished and the Disciplinary Authority imposed the penalty of withholding annual increment for a period of 3 years w.e.f. 1-12-1993 and on further appeal, the withholding of increment for 3 years has been modified as 2 years.

(c) The applicant submits that as the arrears of salary for the period he was kept out of service, was not paid, he made representation to the department. He also got legal notice issued to the department. The administration by letter dt.28-1-97 addressed to the counsel, informed that the applicant was given original status of Sr. Gangman in scale Rs.800-1150. It is further stated as follows:-

" The intervening period spent on removal from service from 15-6-86 to 31-8-87 was treated as leave, and further his pay in scale was refixed with effect from 1-7-73. On account of stepping up of pay on par with his Junior and he is due for arrears. The arrears in all the above cases are to be drawn and paid to him.

The investigation/verification of old records are to be made, and the concurrence of Finance had to be obtained, and in addition, the Administration approval has also to be obtained, which will naturally take considerable time.

The Administration has already worked out arrears,

and for drawal of belated claims approval from Hd. Qrs is awaited for. The arrears will be paid to him at the earliest date, after observing the Official procedures."

(d) It is clear from the above letter that the arrears are due to the applicant. Inspite of the fact O.A.No.542/88 was ordered by an order dt.26-10-90, and more than 6 years have passed, so far the order in the O.A. is not complied with. The reply to the notice was given by letter dated:28-1-97. More than 6 months are over. But so far arrears are not paid to the applicant. Under those circumstances the applicant had no other alternative except to approach the Hon'ble Tribunal.

7. Relief Sought:-

In view of the facts mentioned in para 6 above, the applicant herein prays that this Hon'ble Tribunal may be pleased to direct the respondents to pay the arrears of salary from 15-6-1986 to 31-8-1987 with the interest at market rate, forthwith, and pass such other order or orders in the interests of justice.

8. Interim Relief:-

It is also prayed that this Hon'ble Tribunal may be pleased to ~~xxxx~~ fix an early date for final hearing in the above O.A. and pass such other order or orders in the interests of justice.

9. Details of remedies exhausted:-

The applicant submits that he has no other alternative or efficacious remedy except to knock the doors of this Hon'ble Tribunal by way of filing this O.A.

10. Matter not pending with any other courts etc:-

The applicant further declares that the matter regarding

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which this O.A. is filed is not pending before any court of law or any other authority or any other bench of Central Administrative Tribunal.

11. Particulars of the Postal order in respect of the Application Fee:-

i) Postal order No. 812687/28 ii) Date. 19-9-97

iii) Amount of Rs. 50/- (Rupees fifty only).

Rs. 50/- A

12. Details of Index:- An Index in duplicate containing the details of the documents to be relied upon is enclosed herewith.

13. List of Documents:- All the documents relied upon are filed herewith duly indexing the same.

Verification

I, Challa Venkataramana, s/o. Challa Akkulappa, aged about 56 years, Gangeman, O/o. PWI, Madanapalli, Ananthapur District do hereby declare that the contents stated above in paragraphs 1 to 13 are true to the best of my knowledge, belief and information and I have suppressed any material facts of the case.

305/505

APPLICANT.

P. Sankar

COUNSEL FOR THE APPLICANT.

Hyderabad,
Dt. 9-9-1997.

To
The Registrar,
Central Admn. Tribunal,
Hyderabad.

SOUTH CENTRAL RAILWAY

No.G/W.536/MG/W-4.

Divisional Office,
Works Branch, Guntakal,
Date: 28-01-1997.

To

Sri P.Krishna Reddy,
Advocate,
3-5-899, Himayath Nagar,
Hyderabad-500 029.

Sir,

Sub: O.A.542/88 filed by Shri Venkataramana Gangman
of PWI/Madanapalle-vs-Divisional Railway Manager
and others.

Ref: Your notice dated:25-12-96.

.. . . .

Your notice dated:25-12-96, issued on behalf of your
client Sri Venkataramana is received by the undersigned
on 31-12-1996.

The allegations made in the notice are not
true and acceptable by Railway Administration. Your
client has not put forth proper facts before you
while issuing the notice.

The Railways had filed revision petition
11/92 in OA/542/88 before the Honourable CAT/Hyderabad,
seeking a review of the judgement dated 26-12-90 of
the Tribunal. However the Revision Petition was
dismissed by Tribunal on 21-4-1992.

On the dismissal of RP 11/92 (in OA 542/88), the
copy of enquiry report was furnished to Sri Venkataramana
by the Disciplinary Authority during March 1993. He has
submitted his explanation and on Careful consideration
of his explanation dated:20-4-93, the Disciplinary Authority,
had imposed penalty of withholding annual increment for
a period of 3 years w.e.f.1-12-93, on further appeal,
the withholding of increment for 3 years has been

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modified as 2 years. This has been done as per Judgement of Hon'ble CAT/Hyderabad dated 26-10-90. The Employee was also restored to his original status of Sr. Gangman in Scale Rs.800-1150 instead of fixing his pay at Rs.775/- in Scale Rs.775-1025.

The intervening period spent on removal from service from 15-6-86 to 31-8-87 was treated as leave, and further his pay in scale was refixed with effect from 1-7-73. On account of stepping of pay on par with his Junior and he is due for arrears. The arrears in all the above cases are to be drawn and paid to him.

The investigation/verification of Old records are to be made, and the concurrence of Finance had to be obtained, and in addition, the Administration approval has also to be obtained, which will naturally take considerable time.

The Administration has already worked out arrears, and for drawal of belated claims approval from Hq. Qrs. is awaited for. The arrears will be paid to him at the earliest date, after observing the Official procedures.

In view of the above facts, your contention that the defendants in the case, have not taken any steps even after 6 years is not acceptable and you may advise your client suitably in the matter.

Yours faithfully,

Sd/- x x x x x x ,

Divisional Railway Manager(Works),
S.C. Railway, Guntakal.

// True Copy //

R. S. S. S.

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Annexure-II

P. KRISHNA REDDY &
P. SARADA
ADVOCATES

Hyderabad,
Date: 25-12-1996.

By Regd. Post with Ack. Due.

To

1. The Divisional Railway Manager,
South Central Railway,
Guntakal.
2. The Senior Divisional Engineer(MG),
South Central Railway,
Guntakal.
3. The Assistant Engineer,
South Central Railway,
Pakala.

Under the instructions of my client Mr. Venkata Ramana, applicant in O.A.No. 542/1988 who is now working as Gangeman, O/o. PWI, Madanapalli Section, S.C. Railway, Pakala, Chittoor District, I issue the following notice to you.

My client filed O.A.No. 542/1988 praying the Hon'ble Tribunal to quash the order dt. 5-6-1986 removing him from service by the Asst. Engineer, S.C. Railway, Pakala, the Appellate Order dt. 19-8-97 where under the Appellate Authority i.e. Sr. Divisional Engineer(MG), S.C. Railway, Guntakal, while setting aside the removal order passed by the Disciplinary Authority, directed that the appellant should be appointed as a fresh candidate on a minimum pay of Rs. 775/- in the pay scale of Rs. 775-1025. The Revision Petition filed before the Divisional Railway Manager, S.C. Railway, Guntakal was dismissed by the Revisional Authority on 23-4-1988.

The Hon'ble Central Administrative Tribunal, Hyderabad by an order dt. 26-12-1990 was pleased to allow the O.A. on the ground that the Enquiry Officer's report was not supplied to the applicant before the order awarding punishment was passed. While allowing the O.A. the Hon'ble Tribunal was pleased to observe as follows:-

"In view of the above decision, we hold the enquiry in the instant case is vitiate and the order imposing the penalty of removal and subsequent appointment of the applicant as a fresh candidate on the minimum pay of Rs.775/- in the pay scale of Rs.775-1025 must be quashed. This, however, will not preclude the respondents from supplying a copy of the enquiry report to the applicant and give him an opportunity to make his representation and proceedings to complete the disciplinary procedures from that stage. The application is allowed to the extent indicated above, but in the circumstances, we make no order as to costs.

If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how ~~the period~~ the period spent in the proceedings should be treated would depend upon the ultimate result. Nothing said herein would affect the decision of the disciplinary authority. At the same time, we may add that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceedings. That is entirely left to the discretion of the disciplinary authority."

In spite of the fact 6 years have lapsed no steps were taken by the administration to proceed with the enquiry once again.

Under those circumstances the question of proceeding with enquiry does not arise at this stage, as it offends Article 21 of the Constitution of India as laid down by the Hon'ble High Court of Andhra Pradesh following the Judgement of the Supreme Court.

My client was reappointed on basic salary of Rs.775/- in the pay scale of Rs.775-1025. So for the salary of the applicant was not restored. Under the above circumstances

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treating my client as in continuous service on and after 5-6-86, his salary may be revised giving all the increments and pay him all arrears due to him. In case the just request of my client is not complied with, within 4 weeks, he has no other alternative except to approach the Hon'ble Central Administrative Tribunal, Hyderabad Bench, at Hyderabad for necessary relief and you will be personally held responsible for the expenditure my client may likely to incur in this regard.

Take notice accordingly.

Sd/- x x x x x x ,

-P. KRISHNA REDDY,
ADVOCATE.

// True Copy //

P. Sreedhar

Annexure-III

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

ORIGINAL APPLICATION NO: 542 of 1988.

DATE OF JUDGMENT:

DATE OF JUDGMENT: 26-12-1990.

Between:

Mr. Venkātaramana. . . . Applicant.

And:

1. The Divisional Railway Manager,
South Central Railway,
Guntakal.
2. The Senior Divisional Engineer(MG),
South Central Railway,
Guntakal.
3. The Assistant Engineer,
South Central Railway,
Pakala. . . . Respondents.

FOR APPLICANT: Mr. P. KRISHNA REDDY, Counsel.

FOR RESPONDENTS: Mr. N. R. Devaraj, SC for Railways.

CORAM: Hon'ble Shri J. Narasimha Murthy, Member (Judl.)

Hon'ble Shri R. Balasubramanian, Member (Admb.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J. NARASIMHA MURTHY, MEMBER (JUDL.)

This is a petition filed by the petitioner for a relief to quash the orders No. M/6/V/84/MPL dated: 19/5/5.6.86 passed by the 3rd respondent herein No. G/P.90/IV/V/R, dated: 19-8-1987 passed by the 2nd respondent herein and No. G/P.90/IV/V.R/239, dated: 23.4.1988 passed by the 1st respondent herein. The facts of the case are briefly as follows:-

The applicant was transferred from Madanapalli Section Gang No.11 to the Kalikiri Section Gange No.8 by Office Memo No. M/6 dated: 6.2.1984 of the 3rd respondent. As normally transfers of Gangmen from one seniority unit to the other seniority unit should not be ordered, the applicant appealed to the Divisional Railway Manager

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to cancel the orders of his transfer and retain him at Madanapalli. The Divisional Railway Manager by his Office Order dated: 4.4.1984 cancelled the transfer and retained the applicant at Madanapalli. The applicant joined back to his original section under Permanent Way Inspector, Madanapalli on 11.4.1984. The applicant could not join his new Section at Kaligiri pursuant to the transfer order dated: 6-2-1984 as his appeal was pending and he was not keeping good health. So, he was absent for the period from 10.2.1984 to 11.4.1984. On the ground that the applicant was unauthorisedly absent for 61 days, the 3rd respondent issued a charge memo on 25.5.1984 stating that the applicant has not carried out his orders of transfer. The applicant submitted his explanation on 19-6-1984, stating that he was not keeping good health during the said period. He enclosed a medical certificate along with his explanation. Not being satisfied with the explanation, an enquiry was conducted against the applicant. The Enquiry Officer submitted his report on 14.8.1986 to the 3rd respondent herein. On the basis of the said enquiry report, the 3rd respondent passed an order removing the applicant from service with immediate effect. Aggrieved by the same, the applicant preferred an appeal dated: 4-6-1986 to the 2nd respondent. The appellate authority disposed of his appeal on 19-8-1987 agreeing with the report of the enquiry officer but at the same time he has set aside the sentence of removal and directed appointment of the applicant as a fresh candidate on the minimum pay of Rs.775/- in the pay scale of Rs.775-1025. Aggrieved by the same, the applicant preferred a revision petition before the 1st respondent on 2.12.1987 and the same was dismissed by the 1st respondent on 23.4.1988. Hence, the applicant filed the present application

for a direction to quash the impugned orders.

2. The respondents filed a counter with the ~~following~~ following contentions:-

The applicant was transferred from one unit to another on administrative grounds but he refused to carry out the transfer orders and it is only after he was posted back to the original unit pursuant to the orders of the Divisional Railway Manager that he joined the duty. In view of the unauthorised absence for 61 days, the applicant has been removed from service after due enquiry and after giving reasonable opportunity to the applicant. The charge against the applicant was proved beyond doubt. The allegation that the applicant was sick cannot be believed under the circumstances as he was trying to contend on the one hand that the inter-unit transfer is illegal and therefore he did not carry out the transfer orders while at the same time stating that he was sick. It is stated that it is not obligatory to supply the report of the enquiry officer before imposing penalty. There is no violation of the Constitutional guarantee under Article 311(1) or any of the disciplinary rules. For the above reasons, it is stated that there are not grounds to allow the application and the application is liable to be dismissed.

3. Shri P. Krishna Reddy, learned counsel for the applicant and Shri N. R. Devraj, Standing Counsel for the Railways/respondents, argued the matter. Apart from the merits of the case, it is admitted by the respondents that the applicant was not supplied with the Enquiry Officer's report before the order of punishment was passed. This matter is covered by the decision of the Full Bench

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of the Central Administrative Tribunal, Bombay Bench rendered in "Premnath K. Sharma Vs. Union of India" reported in 1988(6) ATC 904 wherein it has been held that the report of the Inquiry Officer ought to have been furnished before the disciplinary authority passed the order of punishment to enable the applicant to assail the finding of the Inquiry Officer before the disciplinary authority passed the order of punishment. It was held in Premnath K. Sharma's case as follows:-

"Even after the amendment of Article 311(2) by the 42nd Amendment, the Constitution guarantees a reasonable opportunity to show cause against the charges levelled against the charged officer during the course of the enquiry. In order to fulfil the constitutional requirement he must be given an opportunity to challenge the enquiry report also.

The Enquiry Officer enquires into the charges, the evidence is recorded and the charged officer is permitted to cross-examine the witnesses and challenge the documentary evidence during the course of the enquiry. But the enquiry does not conclude at that stage. The enquiry concludes only after the material is considered by the disciplinary authority, which includes the Enquiry Officer's report and findings on charges. The enquiry continues till the matter is reserved for recording a finding on the charges and the penalty that may be imposed.

Any finding of the Disciplinary Authority on the basis of the Enquiry Officer's report which is not furnished to the charged officer would, therefore, be without affording a reasonable opportunity in this behalf to the charged officer. It therefore

--: 16 :--

follows that furnishing a copy of the enquiry report to the charged officer is obligatory."

In view of the above decision, we hold the enquiry in the instant case is vitiated and the order imposing the penalty of removal and subsequent appointment of the applicant as a fresh candidate on the minimum pay of Rs.775/- in the pay scale of Rs.775-1025 must be quashed. This, however, will not preclude the respondents from supplying a copy of the enquiry report to the applicant and give him an opportunity to make his representation and proceedings to complete the disciplinary proceedings from that stage. The application is allowed to the extent indicated above, but in the circumstances, we make no order as to costs.

4. If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result. Nothing said herein would affect the decision of the disciplinary authority. As the same time, we may add that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceedings. That is entirely left to the discretion of the disciplinary authority.

5. Since we are allowing the O.A. on the ground that the matter is covered by the Full Bench decision in Premnath K. Sharma's case, we are not taking up the other contentions raised. It is open to the applicant to raise these contentions before the disciplinary authority if further action is sought to be taken against him.

// True Copy //

R. Sarda

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No.1248 OF 1997.

DATE OF ORDER:5-2-1999.

BETWEEN:

Challa Venkateramana.

.....Applicant

a n d

1. The Divisional Railway Manager(Works),
South Central Railway, Guntakal,
Anantapur District.
2. The Senior Divisional Engineer(MG),
South Central Railway, Guntakal,
Anantapur District.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mrs.P.Sharada

COUNSEL FOR THE RESPONDENTS:: Mr.V.Bhimanna

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER(PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(J))

None on either side. We are deciding this OA
on the basis of the material available on record in
accordance with Rule 15(1) of the CAT Procedure Rules,
1987.

Jr

.....2

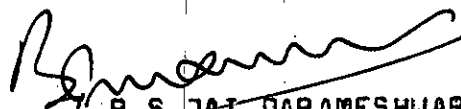
2. No reply has been filed in this OA.

3. This OA is filed praying for a direction to the respondents to pay the arrears of salary from 15-6-1986 to 31-8-1987, during which period i.e., from the date of removal of the applicant from service till he was reinstated with interest at market rate forthwith.

4. From the letter addressed to Sri P. Krishna Reddy, it appears that Advocate dated: 28-1-1997, / the intervening period spent on removal from service from 15-6-1986 to 31-8-1987 was treated as leave and further his pay in the scale was refixed with effect from 1-7-1973. On account of stepping of pay on par with his Junior, he is due for arrears. The arrears in all the above cases are to be drawn and paid to him.

5. The above is not very clear. The respondents should inform the applicant within two months the treatment of period he was away from service, the stepping up of pay and arrears on that basis. If there are no arrears to be paid to him, the reasons for the same should also be indicated in the letter. The arrears, if any, to be paid to him should be indicated making a calculation as to how that figure has ^{been} arrived at.

6. The OA is disposed of. No costs.



(B.S. JAI PARAMESHWAR)

MEMBER (JUDL)



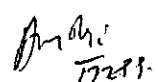
(R. RANGARAJAN)

MEMBER (ADMN)

Dated: this the 5th day of February, 1999

Dictated to steno in the Open Court

DSN



1-3-99

1st and IIInd Court.

Copy to:

1. HHNDJ
2. HHRD M(A)
3. HSSDP M(J)
4. D.R.(A)
5. SPARE

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD.

THE HON'BLE MR.JUSTICE B.H.NASIR:
VICE - CHAIRMAN

THE HON'BLE H.RAJENDRA PRASAD :
MEMBER (A)

THE HON'BLE R.RANGARAJAN :
MEMBER (A)

THE HON'BLE MR.B.S.JAI PARAMESHWAR :
MEMBER (J)

DATED: 5/2/99

ORDER/JUDGMENT

M.A./R.A./C.P.NO.

IN

C.A.NO : 1248/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

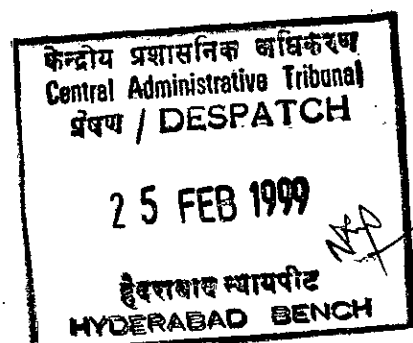
DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

7 (seven)



2. No reply has been filed in this OA.

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6. The OA is disposed of. No costs.

प्रमाणित प्रति
CERTIFIED TRUE COPY

कैस नम्बर... O.A. 248/92
दिनांक... 5/2/98
DATE OF... 22/2/98
GOVT. SECRETARIAT

प्राथम्य अधिकारी
Court Officer
प्रकरण
Administrative Tribunal
बेच
BENCH.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

D.A.No.1248 OF 1997.

DATE OF ORDER:5-2-1999.

BETWEEN:

Challa Venkataramana.

.....Applicant

a n d

1. The Divisional Railway Manager(Works),
South Central Railway, Guntakal,
Anantapur District.
2. The Senior Divisional Engineer(MG),
South Central Railway, Guntakal,
Anantapur District.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mrs.P.Sharada

COUNSEL FOR THE RESPONDENTS:: Mr.V.Bhimanna

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER(PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(J))

None on either side. We are deciding this OA
on the basis of the material available on record in
accordance with Rule 15(1) of the CAT Procedure Rules,
1987.

.....2

Form No.9.
(See Rule 29)

BY.R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH AT HYDERABAD.
1st Floor, HACA Bhavan, Opp: Public Garden, Hyderabad-500004.A.P.

ORIGINAL APPLICATION NO.

1248

OF 1997.

Applicant(S) **Challa Venkateramana V/S**

Respondent(S)

D.R.M. S.C.Rly, Guntakal, & Ors.

By Advocate Shri **P.Krishna Reddy**

(By/Central Govt.Standing Counsel)

To.

- R-1. The Divisional Railway Manager(Works), South Central Railway,
Guntakal, Anantapur District.
R-2. The Senior Divisional Engineer(MG), South Central Railway,
Guntakal, Anantapur District.

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunal Act, 1985 as in the copy annexed hereunto has been registered, and upon Preliminary hearing the Tribunal has admitted the application.

Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal Practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal Practitioner/ Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any further Notice.

Issued under my hand and the seal of the Tribunal

This the **Twentyfourth** day of **September** 1997.

//BY ORDER OF THE TRIBUNAL//

Date: **2-10-1997**
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

DESPATCH

16 OCT 1997



FOR REGISTRAR.



S. R. No.

Hydrabad

DISTRICT

**Central Administrative Tribunal
Hyderabad Bench**

O.A. No.

of 1997

VAKALAT

ACCEPTED

P. Krishna Reddy

P. Sarada

Advocate for Applicant
~~Respondent~~

**M/s. P. KRISHNA REDDY
&
P. SARADA
ADVOCATES**

Applicant
Advocate for ~~Respondent~~

Address for service :

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3-5-899,
HIMAYATNAGAR,
Hyd-500 029.
Ph : 243091

Residence :
106, Renuka Shakthi Apartments
3-5-797, Kingkothe,
Basheer Bagh, Hyd-29.
Ph : 236947

In the Central Administrative Tribunal, Hyderabad Bench.

O.A. No. 1248 of 1997

C. Venkata Ramana

Applicant

VERSUS

The D.R.M., SC Rly,
Saidabad

I
We

Respondent

Applicant/Respondent In the above Application do hereby appoint and to retain

M/s. P. KRISHNA REDDY

&

Smt. P. SARADA

ADVOCATES

Advocate/s of the High Court to appear for me / us in the above Appeal / Petition and to conduct and Prosecute (or defend) the same and all Proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or the receipt of any money that may be payable to me/us in the said Appeal/Petition and also to appear in all appeals, and applications under clause XV of the Letters Patent and in applications for review and for leave to appeal to the Supreme Court.



* 205 by 507

C. Venkata Ramana

I certify that the contents of this Vakalat were read out and explained in.....Talwar..... in my presence to the executant, or executants who appeared perfectly to understand the same and made his / her / their signature or marks in my presence.

Executed before me this 9th day of Sept 1997

(V.P.N.) Talwar
Advocate, Hyderabad